of Good, and the above group of teachers with a rating of Very Good actually received $1,800 per year, that being the maximum payable in their classification, but if appellants' contention be correct, then both groups necessarily would have received $1,260 per year."

Here counsel is mistaken because both groups actually received $1,260.00, and all—both those who had been rated Good and Very Good with the same salary of $1,260.00, were in the following year, 1942-43, rated Very Good, with the salary of $1,320.00, which applied to the classification Very Good as seen by the schedule. (R. 33).

That there be no question about this we hereunder give a complete list of the 6-year teachers of 1941-42, with their salaries and ratings for both that and the succeeding year, with the page of the official list on which their names and all the information is given by the respondents. It clearly appears that however the different ratings got on the official list, the salaries of the teachers were not affected.

Official List Page		1941-42 Salary	Rating	1942-43 Salary	Rating
2	Wilma Barnhill	$1,260	G	$1,320	VG
3	Jane Martin	1,260	G	1,320	VG
3	Mary McCracken	1,260	G	1,320	VG
5	Lucille Coppock	1,260	G	1,320	VG
15	Annie Le Rollins	1,260	G	1,320	VG
19	Fred Lugenbuhl	1,260	G	Leave	
10	Martha Lewis	1,260	G	1,320	VG
24	Clairnelle Weber	1,260	G	Resigned	
25	Maxine Songer	1,260	G	1,320	VG
33	Betty McCall	1,260	G	1,320	VG
35	Clarice Parker	1,260	G	1,320	VG
37	Martha Zimmerman	1,260	G	1,320	VG
37	Katherine Singleton	1,260	G	1,320	VG
25	Janice Brill	1,260	VG	1,320	VG
27	Marion Ryan	1,260	VG	1,320	VG

28 Louise Ott	1,260	VG	1,320	VG
28 Helen Lundilius	1,260	VG	1,320	VG
29 Irene Peoples	1,260	VG	1,320	VG
30 Ruth A Murray	1,260	VG	1,320	VG
32 Hilda Weir	1,260	VG	1,320	VG
32 June Randolph	1,260	VG	Resigned	
33 Nora McKinney	1,260	VG	1,320	VG
38 Ray Miller	1,260	VG	1,320	VG

From this it will be seen that every one of the 13 rated Good in 1941-42 except one who resigned and one who took leave, was automatically advanced to the Very Good Salary of $1,320.00. And all of those who were rated Very Good were continued at the same salary as the others; that is, all the 6-year white teachers of 1941-42 were at the same salary in 1942-43, classification or no classification notwithstanding.

At the beginning of his cross examination (R. 342) Mr. Conroy who had been testifying not only as a member of the rating committee but also as an expert statistician was shown the official list and asked if there was a single white teacher who did not receive the grade of G at 3 years of service. (The contention of the petitioner has been that the white teachers uniformly reached the grade of G after having been in service 3 years while the colored teachers reached it only after 8 years). He answered:

A. May I refer to my notes?

Q. Yes.
A. All right.

Q. I am speaking now of the teachers who were in the school system at that time.
A. At what time?

Q. Any where on the tabulation—four years?
A. Four years?

Q. That did not reach the grade of Good at four years?
A. I will look and see if I can find such a figure (Witness examined papers). Yes, the name of

Edna Luke appears on here who does not follow that.

Q. Spell the name.
A. E-D-N-A L-U-K-E.

Q. What was her rating?
A. Fair.

Q. At what years of service?
A. Twenty-five.

Q. A degree teacher?
A. Yes, only degree teachers receive that rating.

Q. Can you find me another one?
A. I will look and see, sir.

Q. Do you find —
A. I find no others who receive that rating. There were others who had been rated Fair who do not appear on the compilation, however, who left the school system or who failed to receive a recommendation for re-employment after receiving that rating Fair. (R. 342-3).

This shows conclusively that Mr. Conroy knew exactly what Mr. Semple was questioning about, namely, teachers in the system previously. There is no possible excuse for this testimony of Mr. Conroy. It was false and known to Mr. Conroy because he made certain as to what was wanted by his question.

The fact of the matter is that Edna Luke was not in the school system in 1941-42, having been employed for the first time in 1942-43, as is shown in page 43 of the official list. This testimony regarding Edna Luke was therefore incorrect. Later, Mr. Conroy testified as to others of from 4 to 22 years' experience who he said were "rated only fair," (R. 343-344) as follows:

He testified that Walter Blackwell, a 4 year white teacher was "rated only fair." Mr. Blackwell was rated "Good." (Official list, page 341).

He testified that June Randolph, a 6 year white teacher was "rated only Fair" (R. 343). She was rated "Very Good." (Official List, p. 32).

He testified that Thelma Fulton, a 5 year white teacher was "rated only Fair." (R. 343). Thelma Fulton was rated "Good." (Official list, p. 39).

He testified that Helen Bixler, a 5 year white teacher was "rated only Fair." (R. 343). Helen Bixler was rated *"Good."* (Official list p. 18.)

He testified that Eleanor Mebane, an 18 year white teacher, was rated "Fair." As a matter of fact she was a 22 year teacher and rated *"Very Good."* (Official list p. 8.)

He testified that Annie P. Lee, a 17 year teacher was rated only "Fair." (R. 344). She was rated *"Very Good."* (Official list p. 10.)

The significance of this, and the other items specifiaclly pointed out here, is that it is only in connection with this type of answer that the petitioner would be able to show if the truth were being told or if the statements of the witnesses were accurate. And we say, without any hesitation or apology to counsel for respondents that in practically every instance of this kind where the answer can be checked for accuracy and veracity, the check shows against the respondents.

On page 325 of the Record—speaking of Barnhill and Abertine Fleming whom he had said were 15 years of experience, he was asked:

Q. Were they new teachers?

A. No sir, they weren't new teachers. Last year they had been with us over a period of anywhere from—some came in last year and some had been with us previously for a very few years—two or three.

Both of the teachers named, and named so emphatically by him, were employed for the first time in

1942-43, given temporary rating of Good with a salary of $1,260, the limit of that rating—and advanced to Very Good, maximum salary of $1,800.00 in 1943-44. Fleming had outside service of 18 years and Barnhill outside service of 22 years. Not 15 years as Mr. Conroy testified. Both names are found as new teachers on page 42 of the official list.

At page 326 on direct examination Mr. Conroy made the following statement:

> "Here are a number of names I pulled out from the compilation of degree teachers who did not receive any salary increases for the years 1942-43 because of having reached the maximum payable to them under their rating, whatever it might have been, with the exception of those who had the maximum of $1,800.000. I did not consider any of those because that is the maximum."
>
> Then he proceeded to name the following: Edna Luke (List p. 43), Virginia Rogers (List p. 41), Willie Kernochan (List p. 41), Mary Morrison (List p. 42), Grace Stone (List p. 41), and Elizabeth Carnes (List p. 44).

All of these were employed for the first time in 1942-43 except Elizabeth Carnes who had been a substitute teacher not mentioned in the list of teachers but put in employment first time in 1942-43. (List p. 44). He also named Estella Jones, a colored teacher who was not advanced in 1942-43 because of having reached the maximum. Estella, like the whites just named, was employed for the first time in 1942-43. (List p. 60).

> Then Mr. Conroy said:
>
> "Here are two white teachers in the 8th year that illustrate that difference. One is receiving $1,320 and one is receiving $1,260. Now neither of those teachers has been rated Very Good *for very long* or their salary would be more."
> Then by Mr. Keen:

Q. The names?

A. A. E. Blair and L. Liddy. Blair received $1,320 and Liddy received $1,260. I don't recall off hand what the eighth year salary is for a teacher who makes normal progress and improvement year by year and is reclassified as a normally progressive teacher will be from Fair to Good and to Very Good as she improves in the service. It is $1,500, I would say, and $60 one way or the other. So neither one of those teachers, you can see is in that bracket. One is rated only Good and receives $1,260, while the other has just been rated Very Good and receives $1,320."

Examination of the official list shows that Blair was employed for the first time in 1942-43 with a temporary rating of Good and advanced in 1943-44 (List p. 41) and Liddy was appointed in 1943-44 with the same rating. (List p. 47).

THE ADDITIONAL DEFENSES

The respondents in their brief continue to appear to misunderstand our point with reference to the so-called "Additional Defenses." (R. 42-51). The Courts below, we insist, also missed the same point. Our entire claim is that the record shows, conclusively, that regardless of what the defendants and their witnesses *may say,* no matter the asservations and repetitious claims of non-discrimination and *lack of intention,* their "Additional Defenses" stand as an unshaken and immovable monument upon which appear the words "the whites pay more for their education than do the blacks; the whites pay more, and must pay more, to live than do the blacks; the whites pay more, and must pay more to maintain "position" than do the blacks; it is necessary that the whites maintain a higher and better position than the blacks. Therefore, we pay and we intend to pay—under all circumstances—more to the whites than we will pay to the blacks." With that belief in their

minds, and they by their "Additional Defenses" formally so stated, we say that it was impossible for them to perform the task of classifying and rating without discrimination. To put it another way: these statements contained in the "Additional Defenses," taken in conjunction with the monotonous regularity of results in pay—all to the disadvantage of petitioners—are irrefutable proof of discrimination and intention to discriminate.

We appreciate the fact that respondents would like to disavow the implications and the intention to discriminate as evidenced by these, now, confounding "Additional Defenses," but we insist, the statements are theirs. They show what lay in their minds and hearts and in their souls, and they are "stuck" with them, inescapably.

We insist that the Courts below were asleep—that their abilities to interpret human actions based upon declared motives were lacking—when they failed to recognize that such expressed motivations to discriminate must have dominated every act of the respondents.

One of the chief reliances of respondents is that *"negro teachers as a group"* had less teacher worth and were less efficient teachers than the white teachers *as a group."* (Respondent's Brief p. 16). This was stated to be a fact by all of respondents' witnesses. Actually it was *insisted* upon by them. We ask: less efficient and effective for whom? For blacks teaching whites? For whites teaching blacks as far as the whites were concerned and vice versa?

We submit that the petition should be granted.

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